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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/811,024	03/26/2004	Richard Francis Keenan		7121

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RICHARD F. KEENAN
1579 B MOORESFIELD ROAD
WAKEFIELD, RI 02879

EXAMINER

DEXTER, CLARK F

ART UNIT	PAPER NUMBER
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3724

DATE MAILED: 10/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/811,024

Applicant(s)

KEENAN, RICHARD FRANCIS

Examiner

Clark F. Dexter

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 July 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 5-12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 13-20 is/are rejected.
- 7) ☒ Claim(s) 4 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. The amendment filed on July 31, 2006 has been entered.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2, 4, 13 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Moore et al., pn 5,873,498.

Regarding claims 1, 2, 4 and 17, Moore discloses an apparatus with every structural limitation of the claimed invention including a sawdust collection apparatus consisting essentially of a collector, wherein the collector comprises:

a container (e.g., 140) having an upper opening (e.g., which is closed by zipper 150), inwardly sloping sides and a bottom portion;

the bottom portion including a closure (e.g., 152, 172) and a vacuum connector device (e.g., 200);

the closure (e.g., 152, 172) being manipulable into an open position for permitting the removal of dust collected in the container, or into a closed position;

and the vacuum connector (e.g., 200) being connectable to a vacuum source;

wherein the upper opening of the container includes a second fastener structure (e.g., 154) along the outer periphery of the upper opening and, wherein the second fastener structure is capable of removable attachment to the first fastener structure on the open bottom base;

[claim 2] wherein the container is a bag;

[claim 20] wherein the bag is made from a one-piece fabric.

Regarding claim 13, Moore discloses a kit with every structural limitation of the claimed invention including a sawdust collector kit consisting essentially of:

a container (e.g., 140) having an upper opening (e.g., in which zipper 150 is disposed), inwardly sloping sides and a bottom portion, the bottom portion including a closure (e.g., 152, 172) and a vacuum connector (e.g., 200), and

the closure being manipulable into an open position for permitting the removal of sawdust collected in the container, or into a closed position;

the vacuum connector being connectable to a vacuum source, wherein the upper opening of the container includes a second fastener structure (e.g., 154) along the outer periphery of the opening and, wherein the second fastener structure is capable of removable cooperative attachment to the first fastener structure on the open bottom base;

[claim 17] wherein the connector is adapted to permit removal of sawdust from the container during use of the table saw in any of the claimed modes of operation;

[claim 18] wherein the container is a bag;

[claim 19] wherein the bag is made from a one-piece fabric.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 3 and 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moore et al., pn 5,873,498.

Regarding claim 3, Moore discloses an apparatus with almost every structural limitation of the claimed invention including a collector as described above, but lacks the bag being made of cloth. However, the Examiner takes Official notice that it is old and well known in the art to make such bags from cloth for the various well known benefits including reduced cost. Therefore, it would have been obvious to one having ordinary skill in the art to make the bag of Moore from cloth for the well known benefits including that described above.

Regarding claims 14-16, Moore discloses an apparatus with almost every structural limitation of the claimed invention including a collector as described above, but lacks the specific type of fasteners; that is, hook and loop fasteners. However, the Examiner takes Official notice that hook and loop fasteners in the form of straps are old and well known in the art and provide various well known benefits including facilitating easy attachment and removal of various type of items. Therefore, it would have been obvious to one having ordinary skill in the art to replace the fastening structure of Moore

with hook and loop fasteners for the well known benefits including those described above.

It is noted that the common knowledge or well-known in the art statement of the previous office action has been taken to be admitted prior art because applicant either failed to traverse the examiner's assertion of official notice or that the traverse was inadequate. See MPEP § 2144.03.

Allowable Subject Matter

6. Claim 4 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

7. Applicant's arguments filed July 31, 2006 have been fully considered but they are not persuasive.

In the first paragraph on page 6 of the response, it is respectfully submitted that applicant has not stated why the prior art invention is not capable of removable attachment ..." as described. That is, the prior art clearly discloses fastener structure as described above and it appears that the prior art is fully capable of being attached to corresponding fastener structure. It is respectfully submitted that the specific recitation of a table saw is considered to be a functional recitation of intended use and cannot be considered to patentably distinguish the claimed invention over the prior art.

Similarly, in the second paragraph on page 6 of the response, applicant again appears to argue that the prior art does not perform the same intended use as the present invention. It is respectfully submitted that the Examiner's position is not that the prior art is used in the same manner as the present invention. Rather, the Examiner's position is that the prior art teaches and/or suggests all of the claimed structure, and that the prior art is fully capable of sawdust.

Regarding applicant's discussion of the restriction requirement, applicant is correct that claim 13 is a linking claim.

Regarding applicant's arguments on pages 8-9, the Examiner respectfully disagrees with applicant's analysis and maintains the position that, given the broadest reasonable interpretation of the claims, the prior art teaches and/or suggests every structural limitation of the claimed invention.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

Art Unit: 3724


shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clark F. Dexter whose telephone number is (571)272-4505. The examiner can normally be reached on Mondays, Tuesdays, Thursdays and Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer D. Ashley can be reached on (571)272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3724

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Clark F. Dexter
Primary Examiner
Art Unit 3724

cfd
October 16, 2006